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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/774,007	02/09/2004	Monte B. Willis	7676	8999
31253	7590	10/19/2005	EXAMINER	
M. REID RUSSELL 854 WEST 3390 SOUTH HURRICANE, UT 84737			NGUYEN, SON T	
			ART UNIT	PAPER NUMBER
			3643	

DATE MAILED: 10/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/774,007	WILLIS, MONTE B.
	Examiner	Art Unit
	Son T. Nguyen	3643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 12 July 2005.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1 and 3-8 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1 and 3-8 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 09 February 2004 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. **Claims 1,3-8** are rejected under 35 U.S.C. 103(a) as being unpatentable over Stinnett et al. (6557328).

For claim 1, Stinnett et al.'s embodiment of figs. 10-14 teaches a fender bender comprising a plate of sheet metal 22' having a rectangular cross section and is bent across its longest parallel sides to have and retain a uniform arc along its entire length of approximately ninety degrees (see fig. 13) and has a length to extend at least partially across a lower portion of a saddle fender. The bender of Stinnett et al. is attached to the saddle fender by VELCRO 30 instead of a plurality of bolts each having a broad head end and is threaded along a bolt shaft, and means secured at spaced intervals along an inner arc surface of the bar for receiving each bolt threaded shaft end turner therein to position the broad head end undersurface into engagement with an outer surface edge of a hole formed through the fender wherethrough the bolt is passed.

Stinnett's embodiment of figs. 3-5 teaches a saddle fender bender comprising a plate of sheet metal 22 that is bent to have and retain an arc of approximately 90 degrees and a plurality of Chicago screws 24',24", means (see figs. 4 or 5, openings in

the plate where screw 24" fits therethrough) for receiving each of the screws along the inner arc surface of the plate 22 and the screw's broad head end undersurface engages with an outer surface edge of a hole formed through the fender wherethrough the screw is passed. It would have been an obvious substitution of functional equivalent to substitute the VELCRO of Stinnett et al.'s embodiment of figs. 10-14 with Stinnett et al.'s embodiment of figs. 3-5 comprising a plurality of bolts each having a broad head end and is threaded along a bolt shaft, and means secured at spaced intervals along an inner arc surface of the bar for receiving each bolt threaded shaft end turner therein to position the broad head end undersurface into engagement with an outer surface edge of a hole formed through the fender wherethrough the bolt is passed, since both types of fastener would perform to attach the bender to the saddle fender. It is uncertain if Stinnett's bolts are the type that have broad head ends threaded along bolt shafts. It is notoriously well known in the bolt art that a bolt with a broad head end threaded along a bolt shaft exists; therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a bolt with a broad head end threaded along a bolt shaft in place of the bolt of Stinnett et al., since it is notorious well known in the art that such bolts exist and are plentiful, thus, it would be personal preference to choose which bolt type to use because both types would form the same function to hold the bender to the saddle fender.

Stinnett et al. are silent about the plate of sheet metal being a bar formed from a straight section of metal bar stock. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a bar formed from a straight

section of metal bar stock in place of the plate of sheet metal of Stinnett et al., since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious choice.

In re Leshin, 125 USPQ 416.

For claim 3, figure 5 of Stinnett shows a post (near ref. 24" on the back side where ref. 24" fits therein) which fits through a hole in the fender bender 22. Therefore, as mentioned above, it would be obvious to use the bolt of Stinnett's embodiment of figs. 3-5 in place of the VELCRO of Stinnett's embodiment of figs. 10-14 as substitution of functional equivalent types of fastener.

For claim 4, it would have been obvious to one having ordinary skill in the art at the time the invention was made to attach the posts of Stinnett by soldering or brazing, for such process is notoriously well known in the art of fastening method.

For claim 5, Stinnett et al. embodiment of figs. 3-5 teaches the fender bender 22 arched inner surface is drilled to create the hole where bolt screw fits therein. Therefore, in modifying embodiment of figs. 10-14 with the bolts teaching of figs. 3-5, the hole has to be created for the bolt to fit therein.

For claims 6-8, it would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a bolt with means to receive a turning tool in the fender bender apparatus of Stinnett et al, for such bolts with means to receive a turning tool such as a Phillips head screw driver or Allen wrench is notoriously well known in the bolt art.

Response to Arguments

3. Applicant's arguments filed 7/12/05 have been fully considered but they are not persuasive.

Applicant argued that Stinnett et al. do not teach the bar features, i.e. rectangular and bent through a continuous 90 degrees arc.

The embodiment of figs. 10-14 of Stinnetts et al. does teach the rectangular and 90 degrees arc features as explained above. Figure 13 clearly shows the features as claimed by Applicant.

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Son T. Nguyen whose telephone number is 571-272-6889. The examiner can normally be reached on Mon-Thu from 10:00am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on 571-272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Son T. Nguyen
Primary Examiner
Art Unit 3643

stn